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January 8, 2016

Via ECF Filing

The Honorable Charles R. Breyer
United States District Judge
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

**Re: *In re Volkswagen "Clean Diesel"*, MDL No. 2672 CRB (JSC) (N.D. Cal.)
Application of Sherrie R. Savett of Berger & Montague, P.C. for
Appointment as Lead Counsel or to the Plaintiffs' Steering Committee**

Dear Judge Breyer:

In accord with Your Honor's directives in Pretrial Order No. 2 ("Pretrial Order") (Dkt. 336), I, Sherrie R. Savett, a Senior Shareholder of Berger & Montague, P.C. ("B&M"), respectfully seek appointment as Lead Counsel, or alternatively, as a member of Plaintiffs' Steering Committee. For over 45 years, my law firm has represented the interests of consumers, investors and whistleblowers, and has obtained outstanding results. *See, e.g., In re Payment Card Interchange Fee & Merchant Discount Antitrust Litig.*, MDL No. 1720 (E.D.N.Y.) (B&M as co-lead counsel obtained a \$7.25 billion settlement – the largest U.S. settlement in 2012 and the largest antitrust settlement in U.S. history, revised to \$5.7 billion); *Cook v. Rockwell International Corp.*, No. 14-1112, 2015 WL 3853593 (10th Cir. June 23, 2015) (reinstating a \$926 million trial judgment, including punitive damages, obtained by B&M on behalf of thousands of property owners whose homes were contaminated by radioactive materials); *Exxon Valdez Oil Spill Litig.*, No. A89 0095 (D. Alaska) (B&M was a principal trial counsel and obtained a jury award of \$5 billion, later reduced to \$507.5 million by the U.S. Supreme Court).

The paragraphs below respond specifically to the information requested in the Pretrial Order. My attached biography provides further information about my qualifications.

(1) and (2) Professional Experience and Judicial Contact Information: I have served as plaintiffs' lead counsel and/or as a member of court-appointed steering committees in numerous complex class actions, including MDLs, involving automobile defects and other consumer claims, as well as in securities class actions, *qui tam* cases, and large commercial cases. The following are just a few examples where I served as lead counsel. The examples include the names and contact information of the Judges that presided in these cases:

- *In re TJX Cos. Retail Security Breach Litig.*, MDL No. 1838, No. 07-cv-10162 (D. Mass.) (\$200 million settlement) (Judge William Young, Tel.: 617-748-9156);
- *In re Pet Food Products Liab. Litig.*, MDL No. 1838, No. 07-cv-02867 (D.N.J.) (\$24 million settlement) (Judge Noel Hillman, Tel.: 856-757-5057);
- *In re Rite Aid Inc. Securities Litig.*, MDL No. 1838, No. 99-cv-1349 (E.D. Pa.) (\$334 million settlement) (Judge Stewart Dalzell, Tel.: 267-299-7399);
- *In re Waste Management, Inc. Securities Litig.*, No. 97-cv-7709 (N.D. Ill.) (\$220 million settlement) (Judge Wayne Andersen (Ret.), Tel.: 312-655-0555);
- *In re CIGNA Corp. Securities Litig.*, No. 02-cv-8088 (E.D. Pa.) (\$93 million settlement) (Judge Michael Baylson, Tel.: 267-299-7520);
- *In re Xcel Energy, Inc. Secs., Deriv. & "ERISA" Litig.*, MDL No. 1511, No. 02-cv-2677 (D. Minn.) (\$80 million settlement) (Judge David Doty, Tel.: 612-664-5060); and
- *Parker v. Am. Isuzu Motors, Inc.*, Sept. Term 2003, No. 3476 (Pa. Common Pleas - Phila. Cty.) (class recovered damages from faulty brakes) (Judge Mark Bernstein, Tel.: 215-686-7335).

Several of these Judges have commented specifically on my representation. See *In re U.S. Bioscience*, No. 92-cv-0678, (E.D. Pa. Apr. 4, 1994) (J. Dalzell) ("The quality of lawyering on both sides, but I am going to stress now on the plaintiffs' side, simply has not been exceeded in any case, and we have had some marvelous counsel appear before us and make superb arguments, but they really don't come any better than Mrs. Savett ..., and the arguments we had on the motion to dismiss [Ms. Savett argued the motion], both sides were fabulous, but plaintiffs' counsel were as good as they come."); *In re Rite Aid*, 269 F. Supp. 2d 603, 608, 611 (E.D. Pa. 2003) (J. Dalzell) ("[T]his litigation presented layers of factual and legal complexity which assured that, absent a global settlement, these disputes would take on Dickensian dimensions.... Co-lead counsel here ... were extraordinarily deft and efficient in handling this most complex matter... [T]hey were at least eighteen months ahead of the United States Department of Justice in ferreting out the conduct that ultimately resulted in the write-down of over \$1.6 billion in previously reported Rite Aid earnings.... In short, it would be hard to equal the skill class counsel demonstrated here."); *In re CIGNA*, 2007 U.S. Dist. LEXIS 51089, at *17-18 (E.D. Pa. July 13, 2007) (J. Baylson) ("The Court is aware of and attests to the skill and efficiency of class counsel: they have been diligent in every respect, and their briefs and arguments before the Court were of the highest quality. The firm of Berger & Montague took the lead in the Court proceedings; its attorneys were well prepared, articulate and persuasive."); *In re Xcel*, 364 F. Supp. 2d 980, 992, 994-96 (D. Minn. 2005) (J. Doty) ("[Co-lead counsel] obtained a just result without the assistance of a governmental investigation of securities fraud.... [They] conducted this litigation in an exemplary manner consistently demonstrated considerable skill and cooperation to bring this matter to an amicable conclusion [and] moved the case along expeditiously."); *In re Waste Management*, No. 97-cv-7709 (N.D. Ill. 1999) (J. Andersen) ("[Y]ou have acted the way lawyers at their best ought to act. And I have had a lot of cases ... in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented I would say this has been the best representation that I have seen.").

(3) Willingness and Ability to Commit: I am ready, willing and able to immediately commit my full efforts, and the necessary resources of B&M, to vigorously prosecute the claims



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of Volkswagen purchasers and lessees in this important litigation. My team and I have already demonstrated a commitment to this case. B&M was among the earliest firms to file a class action and represents *more than 36 plaintiffs from two dozen states*. B&M has performed considerable substantive work including legal and factual research while drafting complaints and J.P.M.L. filings. Several of B&M's attorneys, in both the shareholder and associate levels, are familiar with this case and they, as well as others in the firm, are available for future staffing.

(4) Ability to Work Cooperatively with Others: I have a proven track record in working cooperatively with other plaintiff and defense counsel. Indeed, B&M has an excellent working relationship with many firms involved in this litigation and has served as co-lead counsel, or in related capacities, with numerous firms seeking leadership here. The attached list of support by *more than 30 law firms across the country* evidences the respect that I enjoy from fine attorneys across the class action bar.

(5) Access to Resources: B&M has successfully represented victims of fraud and other misconduct for more than 45 years, recovering over \$30 billion for our clients and the classes they have represented. Our firm has significant resources, including 56 experienced attorneys and numerous paralegals and staff that can be called upon to effectively and efficiently prosecute this litigation in a timely manner. B&M also has, and will dedicate, considerable finances to help fund this case on behalf of plaintiffs and the class.

(6) Willingness to Serve: I am seeking to serve as Plaintiffs' Lead or Co-Lead Counsel. Alternatively, I would seek to serve as a member of the Plaintiffs' Steering Committee.

(7) Plaintiffs to be Represented: All vehicle purchasers and lessees nationwide.

(8) Other Considerations: B&M has considerable experience litigating cases involving foreign discovery. *See, e.g., In re Alcatel Alsthom Secs. Litig.*, MDL No. 1263, No. 98-cv-320 (PNB) (E.D. Tex.) (Ms. Savett served as Co-Lead Counsel; obtained a \$75 million settlement, with significant foreign discovery taken in France). In addition, B&M has a cost-effective, proprietary database management system that allows the firm to host in-house hundreds of millions of pages of discovery documents and use electronic searching, on-line document review and electronic predictive and auto-coding. This software has already been successfully utilized in many large complex class action cases.

I very much appreciate the Court's consideration and stand ready to provide any additional information as Your Honor may direct.

Respectfully submitted,

A handwritten signature in blue ink that reads "Sherrie R. Savett". The signature is fluid and cursive, with the first name "Sherrie" and last name "Savett" clearly legible.

Sherrie R. Savett

Enclosures
cc via ECF: Counsel for All Parties